(14)

HIGH COURT OF CHHATTISGARH AT BILASPUR

Civil Revision No.83/2007

Single Bench: Hon'ble Shri Dilip Raosaheb Deshmukh, J.

Applicant		Sriniwas Rao, aged 35 years, S/o Late K.R. Swami, R/o Out House, Railway Qtr. No.240/B, Wireless Colony, Bilaspur (CG)
		Versus
Non-applicants	1.	South East Central Railway, Through-Sr. Divisional Personnel Officer, South East Central Railway, bilaspur.
	2.	Public in General

Cicil Revision under Section 115 of the Civil Proceudre Code 1908

Present:-
Shri Ravindra Agarwal, counsel for the applicant.

ORAL ORDER
(Passed on 23rd July, 2007)

(1) This civil revision is being disposed of finally at the stage of admission today.

(2) The applicant is aggreived by an order dated 18.4.2007 passed by Shri R.L. Jhawar, District Judge, Bilaspur in an unregistered M.J.C., whereby an application filed by the applicant under Sections 50, 51, 52, 53 and 90 of the Mental Health Act, 1987 (hereinafter referred to as the 'Act') for appointment of the applicant as the guardian of Ku. Tara, aged about 44 years and for issuance of a certificate to that extent was returned to the applicant with the observation that under Section 90 of the Act, only the Magistrate had jurisdiction to deal with such matter.

(3) Chapter 6 of the Act deals with Judicial inquistition regarding alleged mentally ill person possessing property, custody of his person and management of his property. Under Section 50 the Act, an application lies to

management of his property. Under Section 50 the Act, an application lies to the District Court for holding an inquisition into the mental condition of the alleged mentally ill person. Under Section 51, on completion of the inquisition procedings, the District Court is required to record its findings on the mental status of the alleged mentally ill person and whether he is incapable of taking care of himself and of managing his property or incapable of managing his property only. Section 52 of the Act deals with the appointment of guardian of mentally ill person and the manager of the property and empowers the District Court to record a finding on the above issues. Section 53 of the Act deals with the appointment of guardian of mentally ill person and provides where the mentally ill person is incapable of taking care of himself, the District Court or, where a direction has been issued under sub-Section (2) of Section 54, the Collector of the District, may appoint any suitable person to be his guardian. The present application filed by the applicant was covered under the first limb of sub Clause-I of Section 53 i.e. for appointment of guardian of mentally ill person. Under Section 54 also, it is the District Court which is empowered to authorize the Court of wards to take charge of the property of a mentally ill person who is incapable of maintaining it. In this manner, it is clear that it is the District Court which alone has jurisdiction to deal with the matter under Sections 50, 51, 52 and 53 of the Act. Although Section 90 of the Act was mentioned in the application, no such prayer was made so as to invoke the provision contained under Section 90 of the Act. The learned District Judge has clearly miscontrued the application as falling under Section 90 of the Act and passed the impugned order which is contrary to law and liable to be set aside.

(4) In the result, this civil revision is allowed. The impugned order is set aside. The application filed by the applicant herein under Sections 50, 51, 52 and 53 of the Act shall be dealt with by the District Court.

Sd/-
Dilip Raosaheb Deshmukh
Judge

Priya